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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/736,399

12/15/2003

David N. Voth

037607-0234

6170

34/099

7590

01/09/2009

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EXAMINER

CAMPEN, KELLY SCAGGS

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

01/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/736,399

Applicant(s)

VOTH ET AL.

Examiner

KELLY CAMPEN

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-36 and 56 is/are pending in the application.
- 4a) Of the above claim(s) 56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
Paper No(s)/Mail Date 10/1/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following is in response to the amendments and remarks filed 10/1/2008. Claims 13-36 and 56 are pending, claim 56 has been withdrawn from consideration.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 10/01/2008 is being considered by the examiner.

While 37 CFR 1.97 and 1.98 do not require that the information be material, rather they allow for submission of information regardless of its pertinence to the claimed invention and there is no requirement to explain the materiality of submitted references, the cloaking of a clearly relevant reference by inclusion in a long list of citations may not comply with Applicant's duty of disclosure, see *Penn Yan Boats, Inc. V. Sea Lark Boats Inc.*, 359 F. Supp. 948, *aff'd* 479 F. 2d. 1338.

Claim Objections

There appears to be a minor typographical oversight in claim 32, the comma at the end of line 2 should be deleted.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13-15 recite a process comprising the steps of receiving, storing and providing. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

Claims 16-36 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. An interface could encompass software – i.e., computer program - which is nonstatutory subject matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not “physical things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other

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claimed elements of a computer which permit the computer program's functionality to be realized. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Double Patenting

Claims 13-36 of this application conflict with claims 1-55 of Application 10/736400, claims 10, 14, 16-30, 33-39, and 42 of Application No. 10/736291, and claims 31-42m 56-69 of US Application No. 10/736478, and claim 1-30 of US Application No. 10/736484, and claims 20-37 of Application No. 11/491000. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d

1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 13-36 are provisionally rejected on the ground of nonstatutory double patenting over claims 10, 14, 16-30, 33-39, 42 of copending Application No. 10/736291. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: internet mortgage application processes.

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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 13-36 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-55 of copending Application 10/736400; claims 31-42m 56-69 of copending US Application No. 10/736478; claim 1-30 of copending US Application No. 10/736484; and, claims 20-37 of copending Application No. 11/491000. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 – 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Tealdi et al. (U.S. 2001/0029482).

Specifically as to claim 13, Tealdi discloses a computer-implemented method of facilitating the flow of capital through the housing finance industry, comprising: receiving mortgage loan application data for a plurality of mortgage loan applications using each of a consumer-direct interface, a call center interface, and an advisor interface; storing the loan application data in a database; providing the consumer-direct interface, the call center interface, and the advisor interface with common access to the database, such that loan application data for any particular one of the plurality of mortgage loan applications is susceptible to be viewed and edited by way of any of the consumer-direct interface, the call center interface, and the advisor interface; receiving lender-specific underwriting guidelines from individual ones of a plurality of lenders; generating underwriting determinations for each of the mortgage loan applications based on the loan application data for each of the mortgage loans and the lender-specific underwriting guidelines; and updating retail pricing parameters for at least one of the mortgage loans responsive to inputs received from the plurality of lenders; wherein the consumer-direct interface is a first web-based interface accessible to consumers associated with different lenders by way of the Internet, wherein the advisor interface is a second web-based

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interface accessible to advisors associated with the different lenders by way of a network, and wherein the call center interface is a third web-based interface accessible to users at call centers associated with different lenders, and wherein the data processing platform is accessible to the different lenders by way of a network (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 16, Tealdi shows an integrated computer system, with: a first user interface(consumer direct), the first user interface being configured to receive mortgage loan application data for a mortgage loan application for a mortgage loan to be potentially made by a first party to a second party, the first party being a lender and the second party being a consumer, the mortgage loan application being associated with the consumer, the first user interface being configured for use by at least one of an advisor, a call center, and the consumer (para [0155] and [0093], Figs. 5 and 14); a second user (advisor) interface, the second user interface being a third party participant interface configured for use by a user associated with a service provider that provides a service to the lender and/or the consumer in connection with origination of the mortgage loan (paragraph [0093], Fig. 5, elements 506 and 507); and a data storage system, the data storage system being configured to store the mortgage loan application data received by the first user interface ([0094], [0096] and Fig. 5, element 501 in conjunction with para [0102] and Fig. 6, elements 620 and 630); and wherein the third party user interface is configured to provide the service provider with a view into the data storage system to

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access the mortgage loan application data for use in providing the service in connection with origination of the mortgage loan (paragraphs [0112] -[0115]).

The recitation “to facilitate the flow of capital through the housing finance industry” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Tealdi discloses a system wherein the first user interface further comprises: an interface being configured to receive mortgage loan application data, the interface being configured to permit access to mortgage loan application data for a mortgage loan application associated with the respective consumer (0155 and 0093, Figs. 5 and 14); an interface being configured to receive mortgage loan application data, the interface being configured to permit access to mortgage loan application data for mortgage loan applications associated with the consumers (0155 and 0093, Figs. 5 and 14); and an interface being configured to receive and process mortgage loan application data from users, the interface being configured to permit the users to access mortgage loan application data for mortgage loan applications associated with the consumers (0093, 0094, 0155 and Figs. 5 and 14, showing receiving data and processing data).

The recitations “consumer-direct,” “advisor” and “call center” have not been given patentable weight because they do not serve to alter the recited structural elements

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of the claimed system. The structural elements remain the same regardless of the data being received or accessed within the system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 2106,32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*

Specifically as to claim 14, wherein the consumer-direct interface comprises a series of linked web pages, wherein at least some of the series of linked web pages include lender-configurable regions which are configurable by a lender to include at least one of trademarks, logos of the lender, content provided by the lender, graphics relating to the lender, pricing data configured by the lender, closing costs configured by the lender, operational data of the lender, and business policies of the lender (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 15, wherein the first and second networks are both part of a common network and both comprise at least one of the Internet, an intranet, a wide area network, a local area network, and a metropolitan area network (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 17, wherein the system is configured for use by different lenders, wherein the system includes a platform administrator interface configured to permit the different lenders to configure lender-configurable aspects of the system

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according to lender preferences (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 18, wherein the system is configured for use by different lenders, wherein the system includes a platform administrator interface configured to permit the different lenders to configure retail pricing parameters according to lender preferences (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 19, wherein the retail pricing parameters further comprise at least one of an interest rate, points, a points adjustment, an escrow waiver fee, a delivery fee and a hedge cost (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 20, wherein the platform administrator interface allows the different lenders to selectively reconfigure the number and type of loans presented to the user by way of the consumer-direct interface, the advisor interface, and the call center interface (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 21, wherein the consumer-direct interface is configured to be provided in at least two languages (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 22, further comprising a loan origination system, the loan origination system being configured to generate loan documents to be signed by consumers associated with respective mortgage loan applications, and wherein the loan origination system is configured to receive mortgage loan application data from the data storage system (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 23, wherein the consumer-direct interface, the advisor interface, and the call center interface are each configured to simultaneously present a plurality of loan products to the user for selection by the user, wherein each loan of the plurality of loan products is presented as an approved loan product(paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 24, wherein the consumer-direct interface, the advisor interface, and the call center interface are each further configured to receive a selection from the user of one loan from the plurality of loan products(paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs

[0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 25, wherein the consumer-direct interface, the advisor interface, the call center interface and the lender interface each comprise one or more web pages (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 26, wherein the data storage system comprises at least one of a common database and multiple synchronized databases (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 27, wherein all information relating to an individual loan or loan application is stored as case file data on the common database or the multiple synchronized databases (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 28, wherein the consumer-direct interface, the advisor interface, and the call center interface each access the same case file data (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 29, further comprising a pipeline manager interface configured to aggregate a plurality of closed loans for sale to a secondary mortgage market investor, including obtaining pricing information from the secondary mortgage market investor, and wherein the mortgage loan application data stored in the data storage system is also commonly accessible to the pipeline manager interface (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112]–[0115]).

Specifically as to claim 30, wherein the consumer-direct interface, the advisor interface, and the call center interface are each further configured to receive selections of rate-point combinations for the mortgage loan applications (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112]–[0115]).

Specifically as to claim 31, further comprising an investor interface configured to allow an investor to view at least one of details relating to the one or more loans and results of regulatory review of the one or more loans, and wherein the consumer-direct interface, the advisor interface, the call center interface, and the investor interface each access the same case file data (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112]–[0115]).

Specifically as to claim 32, further comprising a pipeline manager interface configured to facilitate sale of closed loans to a secondary mortgage market investor, (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 33, the system is configured for use by different lenders, wherein the consumer-direct interface comprises a series of linked web pages, wherein at least some of the series of linked web pages include lender-configurable regions which are configurable by a lender to include at least one of trademarks, logos of the lender, content provided by the lender, graphics relating to the lender, pricing data configured by the lender, closing costs configured by the lender, operational data of the lender, and business policies of the lender, and wherein the system includes a platform administrator interface configured to permit the different lenders to configure the lender-configurable regions according to lender preferences(paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 34, the system is configured for use by different lenders, wherein the consumer direct interface, the call center interface, and the advisor interface provide loan pricing information, and wherein the system includes a platform administrator interface configured to permit the different lenders to configure the pricing information according to lender preferences(paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093] , Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig.

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5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 35, wherein the platform administrator interface is further configured to receive mortgage loan product menu configuration information from the lender (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Specifically as to claim 36, the system is configured for use by different lenders, and wherein the system further comprises an underwriting engine, the underwriting engine being configured to generate underwriting determinations based on the loan application data; and a rules engine, the rules engine being configured to tailor the underwriting determinations generated by the underwriting engine according lender-specific underwriting standards of individual ones of the different lenders (paragraphs [0155] and [0093], Figs. 5 and 14, paragraph [0093], Fig. 5, elements 506 and 507, paragraphs [0094], [0096] and Fig. 5, element 501 in conjunction with paragraph [0102] and Fig. 6, elements 620 and 630, paragraphs [0112] -[0115]).

Examiner's Note

Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider

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the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Response to Arguments

Applicant's arguments filed 10/01/2008 have been fully considered but they are not persuasive.

With regards to Applicants' arguments to the 35 USC 101 rejection, Applicant argues that claim 13 includes the limitation "in a database" as a tie to a statutory class.

Examiner disagrees. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

With regards to Applicant's arguments to the 35 USC 101 rejection of claims 16-36, Applicant argues that the limitation "a data storage system is defining structural components. Examiner disagrees. The rejection was not based on a lack of a tie to a statutory class but that an interface could encompass software – i.e., computer program - which is nonstatutory subject matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not "physical things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements

of a computer which permit the computer program's functionality to be realized. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

With regards to applicant's arguments to the 35 USC 102 rejection in view of Tealdi, the system of Tealdi is capable of performing the function of the instant claimed invention. The claim must distinguish in terms of structure not function. Recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY CAMPEN whose telephone number is (571)272-6740. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Kelly Campen/
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